REMARKS/ARGUMENTS

Pursuant to 37 C.F.R. § 1.116, reconsideration of the present application in view of the following remarks is respectfully requested.

Regarding Examiner's Rejection for obviousness by Wright in view of Kauschke et al.

By way of the Office Action mailed April 13, 2006, Claims 1 – 11 stand as rejected under 35 U.S.C. § 103(a) as allegedly being obviousness by U.S. Patent No. 5,385,775 to Wright (hereinafter referred to as Wright) in view of PCT Publication WO 01/012427 A1 to Kauschke et al. (hereinafter referred to as Kauschke). This rejection is respectfully **traversed** to the extent that it may apply to the present claims.

Wright discloses a composite elastic material that includes an anisotropic elastic fibrous web having at least one layer of elastomeric meltblown fibers autogenously bonded to at least a portion of the elastomeric meltblown fibers, and at least one gatherable layer joined at spaced-apart locations (Abstract). The reference teaches point bonding being used to join the gatherable layers and elastic sheet to form the elastic composite material (col. 8, lines 6 – 54). As stated in the Office Action, Wright is silent to the "claimed bond pattern ratio." More particularly, Wright is silent as to both the *nonwoven bond pattern* dimension ratio and the *laminate bond pattern* dimension ratio as claimed in the present invention.

Kauschke discloses a nonwoven having a plurality of bonding points giving the nonwoven a low tensile strength and high percent elongation in a first direction (the CD) and high tensile strength and low percent elongation in a second direction (the MD).

Applicants respectfully submit that Wright in view of Kauschke cannot be properly combined and thus a *prima facie* case for obviousness cannot be established.

First, Kauschke and Wright teach two very different forms of composite elastic materials such that one skilled in the art would not look to combine such references. Kauschke discloses an elastic laminate formed by coating the nonwoven material by direct extrusion of a molten film-forming elastic polymer. As such, the nonwoven material maintains its dimensions after the lamination of the elastic polymer. The elongation of such an elastic laminate is dependent on the ability of the nonwoven material to stretch without breaking the fibers of the nonwoven materials or breaking the bonding points between elastic film and the nonwoven material (see page 15, line 7 – page 16, line 30).

In contrast, Wright teaches a composite elastic material formed by attaching a gatherable material to an anisotropic elastic fibrous web with substantially parallel elastomeric filaments; the elastic web being stretched in the MD when attached to the gatherable material. The elongation of such composite elastic laminates is determined by the extent that the gatherable material is gathered between bond locations, thus allowing the elastomeric filaments to elongate (col 3, lines 34-60 and Background).

As such, the laminates of Kauschke and Wright would not be considered as comparable by those skilled in the art. The composite elastic material of Wright will have the same type of ultimate failure as the material of Kauschke if extended too far (i.e., breaking of nonwoven fibers or delamination of the elastic material from the nonwoven substrate). However, the composite elastic material of Wright is initially gathered such that the total elongation of Wright material includes first extending the laminate back to the original dimensions of the nonwoven material and then extending the laminate in the same manner as in Kauschke (see FIG. 8 and its discussion at col. 16, lines 17 – 52 in Wright). As such, the material of Wright will have a greater degree of total elongation than Kauschke and will be presented in a gatherable form rather than the flat form of Kauschke.

While both the material of Wright and the material of Kauschke may be used in similar applications (i.e., diaper products), they are not the same materials. The materials are in different forms and will provide one skilled in the art with different sets of advantages and disadvantages. As such, one skilled in the art would not look one of these references to modify the other of these references. There is no motivation to combine the cited references.

Second, one skilled in the art would be dissuaded from combining the cited references as the combining of the teachings of both references would work against the purposes of either reference.

The elastic laminates taught by the cited references are specifically designed to provide different types of stretch. Kauschke teaches high elongation in the CD of the material and low elongation in the MD of the material. Such a stretch profile is stressed in Kauschke as being advantageous to use in diaper manufacturing while materials with high percent elongation in MD is specifically sited as undesired in the diaper art (see page 2, lines 1-8; page 5, lines 4 – 17; and page 16, lines 24 – 30).

In stark contrast, the composite elastic material of Wright has elastic filaments that are oriented in the MD (see Fig. 2). As discussed in the background and definitions of Wright, this MD-orientation will cause the stretched elastic filaments to gather the nonwoven substrates along the

MD and subsequently allow for a high degree of elongation in the MD. The material will have a minimal degree of elongation in the CD as the filaments are primarily oriented in the MD.

Thus one skilled in the art trying to increase the MD elongation of an elastomeric material such as in Wright would not be motivated to look to an CD-elongating material such as taught by Kauschke. In fact, Kauschke actually teaches away from such high MD elongation materials (and in favor of high CD elongation materials) with regard to diaper manufacturing needs and the teachings of the "diaper art."

Additionally, one skilled in the art would not look to combine the teaching of the cited references as the teaching effectively work against the desired properties of both references. The bonding pattern of the facings of Kauschke is designed to produce high elongation in the CD and low elongation in the MD. Meanwhile, the composite elastic material of Wright has its primary elongation in the MD with minimal elongation designed along the CD. The combination of such teachings would undesirably increase the MD elongation of the materials sought by Kauschke and would undesirably decrease the MD elongation of materials sought by Wright.

Third, one skilled in the art would be dissuaded from combining the cited references as Welch and Kauschke teach two different types of bonding. The Office Action suggests that the point bonds used to form the composite of Wright are the same as the bond pattern used on the nonwoven of Kauschke and that one skilled in the art would look to modify the bonds of Wright with those of Kauschke. However, the point bonds as discussed in Wright (col. 8) are ***laminate bond points***, i.e., bonds that hold the gatherable material(s) to the elastic material. The bond pattern discussed in Kauschke are ***nonwoven bond points***, i.e., the bond pattern on the nonwoven that subsequently may be bonded to an elastic material. Applicants have failed to find any teaching in Kauschke as to any *laminate* bond pattern. As such there does not appear to be any motivation to combine such references, with regard to bonding patterns, except for the impermissible motivation of hindsight in view of the present invention.

As such, one skilled in the art would not be motivated to combine such references, nor would the combination produce materials that either reference would find desirable. At least for these reasons, the cited references can not be properly combined as there is no motivation to combine such references. Therefore, a *prima facie* case for obviousness cannot be established with regard to Wright in view of Kauschke. Accordingly, the obviousness rejection of Claims 1 – 11 under 35 U.S.C. §103(a) should be withdrawn.

For the reasons stated above, it is respectfully submitted that all of the presently presented claims are in form for allowance.

Please charge any prosecutional fees which are due to Kimberly-Clark Worldwide, Inc. deposit account number 11-0875.

The undersigned may be reached at: (770) 587-8640.

Respectfully submitted,

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I, Nathan Hendon, hereby certify that on June 13, 2006, this document is being sent by facsimile to the United States Patent and Trademark Office, central facsimile number for all patent application related correspondence, at 571-273-8300.

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